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In re Application of
LECHOT *et al*
Application No.: 10/595,645
PCT No.: PCT/IB2004/003676
Int. Filing Date: 10 November 2004
Priority Date: 10 November 2003
Attorney Docket No.: PUS-P001-043-N
For: INSERTER FOR MINIMALLY
INVASIVE JOINT SURGERY

DECISION

This decision is in response to the petition to withdraw the holding of abandonment filed 13 March 2007. No fee is required.

BACKGROUND

On 02 May 2006, applicant filed a transmittal letter (Form PTO-1390) for entry into the national stage in the United States under 35 U.S.C. 371 of international application, PCT/IB2004/003676.

On 05 March 2007, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed because applicants failed to provide the full U.S. Basic National Fee by thirty months pursuant to 37 CFR 1.495(b)(2).

On 13 March 2007, applicant filed the subject response.

DISCUSSION

In order to enter the national stage, applicants must meet the requirements of 37 CFR 1.495, which states, in part:

- (a) The applicant in an international application must fulfill the requirements of 35 U.S.C. 371 within the time periods set forth in paragraphs (b) and (c) of this section in order to prevent the abandonment of the international application as to the United States of America. The thirty-month time period set forth in paragraphs (b), (c), (d), (e) and (h) of this section may not be extended . . .
- (b) To avoid abandonment of the application, the applicant shall furnish

to the United States Patent and Trademark Office not later than the expiration of thirty months from the priority date:

- (2) The basic national fee (see § 1.492(a)).

In this case, the thirty-month time period for PCT/IB2004/003676 expired on 10 May 2006. As such, the national stage papers were timely submitted on 02 May 2006. The Form PTO-1390 transmittal letter signed by Mr. Moetteli authorized the appropriate fees to be charged to Deposit Account No. 50-2621.

A review of USPTO financial records show that there was enough money in Deposit Account No. 50-2621 to pay the appropriate fees and that Mr. Moetteli was authorized to charge fees to this account.

Accordingly, the above-captioned application should not have been abandoned pursuant to 37 CFR 1.495(b)(2).

CONCLUSION

For the reasons above, applicants' petition to withdraw the holding of abandonment is **GRANTED**.

The Form PCT/DO/EO/909 mailed 05 March 2007 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

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